NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR08-659

	Opinion Delivered January 28, 2009
KENNETH RAY JONES APPELLANT	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, SECOND DIVISION
V.	[NO. CR-2007-4065]
	HONORABLE CHRISTOPHER CHARLES PIAZZA, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

JOHN MAUZY PITTMAN, Judge

The appellant was charged with two counts of terroristic threatening. After a jury trial, he was convicted on both counts and sentenced to two consecutive six-year terms of imprisonment and fined $2,500. He argues on appeal that the evidence is insufficient to support the finding of guilt on the first count because the State failed to prove the exact date of the offense. We affirm.

Pursuant to Ark. Code Ann. § 5-13-301(a)(1)(A) (Repl. 2006), a person commits the offense of terroristic threatening in the first degree if, with the purpose of terrorizing another person, the person threatens to cause death or serious physical injury to another person. The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial. *Martin v. State*, 354 Ark. 289, 119 S.W.3d 504 (2003). Evidence is substantial if it is of sufficient force and character to compel reasonable

minds to reach a conclusion and pass beyond suspicion and conjecture. *Id.* On appeal, we view the evidence in the light most favorable to the State, considering only that evidence that supports the verdict. *Id.*

Appellant asserts that the evidence was insufficient because one of the counts of terroristic threatening was alleged to have occurred "on or about" July 7, 2007, but there was no evidence that a terroristic threat was made on that particular date. We do not agree. There was substantial evidence to show that appellant made "hundreds upon hundreds" of telephone calls containing threats to kill the victim between April and October of 2007. The repetitive nature of these acts is similar to the repeated series of offenses often encountered in cases of child sexual abuse. In such cases, it has been held that the victim's inability to fix a definite date will not defeat the charge of rape; discrepancies in the testimony concerning the date of the offense are for the jury to resolve. *Yates v. State*, 301 Ark. 424, 785 S.W.2d 119 (1990). Likewise, in *Rains v. State*, 329 Ark. 607, 953 S.W.2d 48 (1997), a case dealing with the sufficiency of the evidence to support convictions on multiple counts of sexual abuse of a child, our supreme court held that it is not necessary for the State to prove specifically when and where each act of rape or sexual contact occurred, as time is not an essential element of the crimes.

Here, there was substantial evidence to show that appellant did in fact threaten to kill or seriously injure the victim on hundreds of occasions, that such communications continued from April to October 2007, and that specific terroristic threats were made in July 2007.

Because time is not an essential element of the crime, we hold that this proof constitutes substantial evidence to support appellant's conviction.

Affirmed.

GLADWIN and GLOVER, JJ., agree.